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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/821,139	04/09/2004	Jiping Wang	017287-9003-05	3224

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EXAMINER
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EINSMANN, MARGARET V

ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 10/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/821,139	<b>Applicant(s)</b> WANG, JIPING	
	<b>Examiner</b> Margaret Einsmann	<b>Art Unit</b> 1751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☐ Claim(s) 1-4 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>4/9/04</u> . | 6) <input type="checkbox"/> Other: ____.  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beavan et al., US 4,445,901. A fabric conditioning composition is disclosed which comprises fabric softening agents as claimed and lanthanum chloride. The fabric softening agents may be selected from quaternary ammonium compounds, ethers of fatty alcohols (i.e. the claimed polyethylene oxide materials), smectite clays and "other non-cationic softeners listed in the literature." See col 2 lines 21-44. The compositions contain electrolytes, which may be selected from typical electrolytes including lanthanum chloride. See column 4 lines 14-19. It would have been obvious to the man having skill in the art to formulate the composition as claimed comprising a softening agent selected from those disclosed in column 2 along with lanthanum chloride because patentee teaches that such composition is within the scope of his invention. Alternatively, it would have been obvious to the skilled artisan to select lanthanum chloride as the electrolyte in the composition of claim 1 in col 7 because patentee discloses that lanthanum chloride has utility in said composition. Regarding claim 3, all chemical compositions for sale are provided in a package, and the package

notes on its exterior the contents of the package and usually it states a utility. If the composition is known, it is not patentable to enclose it in a container.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Doumaux, Jr. et al., US 4,983,736. Doumaux discloses a process for making amines by condensing an amino compound in the presence of a metallic polyphosphonate condensation catalyst to form amino compounds useful as fabric softening agents. See abstract.  $\text{CePO}_4$  and  $\text{LaPO}_4$  are used as performance moderators in the process. See col 14 line 44. Additionally, in association with said catalysts, are metal oxide catalysts, including  $\text{TiO}_2\text{-Gd}_2\text{O}_3$ ,  $\text{TiO}_2\text{-Ce}_2\text{O}_3$ , and  $\text{TiO}_2\text{-La}_2\text{O}_3$  as disclosed in col 12 lines 57,61 and 62. Col 8 lines 57-60 describes the polyalkylene polyamine which are made as being very useful as fabric softeners. Patentee describes the catalysts. Catalyst P in col 21 lines 47-51 is composed of titanium dioxide and lanthanum oxide; in col 23 lines 1-7 catalyst BB< silicon dioxide/lanthanum metaphosphate is described. Table XVI in col 45-46 describes examples 161-169 using catalyst P. Said composition comprises amines which combine to form an amine compound useful as a fabric softener thus

anticipating the claims. Table XXVIII in col 59-60 describes the composition containing catalyst BB.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "fabric softening agent" is indefinite because the scope of the term is uncertain. The term is defined by how it functions, not specifically by what it is.

***Specification***

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: There is no basis in the specification as filed for the limitation of claim 4. Unless applicant can point to the basis for the claim language in the priority documents, the claim does not have domestic priority to any date prior to the filing of this divisional application.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Margaret Einsmann whose telephone number is 571-272-1314. The examiner can normally be reached on 7:00 AM -4:30 PM M-Th and alternate Fridays.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on 571-272-1316. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

September 28, 2004

  
Margaret Einsmann  
Primary Examiner  
Art Unit 1751